

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

REC'D 11 OCT 2005

WIPO

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(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 39496WOP00	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/IB2004/002202	International filing date (day/month/year) 5 July 2004	Priority date (day/month/year) 4 July 2003	
International Patent Classification (IPC) or national classification and IPC Int. Cl. 7 E04B 1/64, 1/70, 2/72, E04F 13/00, E04H 9/16			
Applicant JAMES HARDIE INTERNATIONAL FINANCE B.V. et al			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/> Box No. I	Basis of the report	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input checked="" type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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<input type="checkbox"/> Box No. VIII	Certain observations on the international application															

Date of submission of the demand 28 April 2005	Date of completion of the report 22 September 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer JOHN HO Telephone No. (02) 6283 2329

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2004/002202

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

international search (under Rules 12.3 and 23.1 (b))

publication of the international application (under Rule 12.4)

international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:

pages	as originally filed/furnished
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

the claims:

pages	as originally filed/furnished
pages*	as amended (together with any statement) under Article 19
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

the drawings:

pages	as originally filed/furnished
pages*	received by this Authority on with the letter of
pages*	received by this Authority on with the letter of

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages

the claims, Nos.

the drawings, sheets/figs

the sequence listing (*specify*):

any table(s) related to the sequence listing (*specify*):

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages

the claims, Nos.

the drawings, sheets/figs

the sequence listing (*specify*):

any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2004/002202

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims 1-48	YES
	Claims -	NO
Inventive step (IS)	Claims 1-48	YES
	Claims -	NO
Industrial applicability (IA)	Claims 1-48	YES
	Claims -	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D2 – US 6233890
 D3 – CA 1298454
 D4 – US 5027572

NOVELTY (N)

The present invention is directed to a rainscreen apparatus including a substantially rigid air barrier adapted for attachment to a building structure, a rainscreen panel adapted for attachment over the air barrier, a spacing member adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means adapted to provide substantial pressure equalisation within the clearance space.

None of the citations discloses the invention as defined.

The closest art, D2, discloses a sheathing membrane which allows water to drain from a cavity or space between the membrane and an exterior wall member. D2 does not disclose the use of a rigid air barrier nor does it disclose the use of sealing means to provide substantial pressure equalisation of the clearance space between the air barrier and the exterior rainscreen panel.

D3 refers to the use of cavities between adjacent panels mounted on a frame. The cavities are pressure equalised with the exterior to prevent water penetrating into the cavities. D3 however does not disclose the use of rainscreen panel attached over a substantially rigid air barrier to provide a clearance spacing therebetween, and the use of a sealing means to provide substantial pressure equalisation within the clearance space.

D4 refers to a moisture and vapour barrier in an exterior insulation finish system. D4 fails to disclose a clearance space between a rainscreen panel and a substantially rigid air barrier.

Therefore the subject matter of claims 1-48 is new and meets the requirements of Article 33(2) PCT with regard to novelty.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2004/002202

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.

Patent No.

US 6745531

Publication date
(day/month/year)
8 June 2004

Filing date
(day/month/year)
31 July 2001

Priority date (valid claim)
(day/month/year)
31 July 2001

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non-written disclosure
(day/month/year)

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

INVENTIVE STEP (IS)

Claims 1-48 also meet the criteria set out in PCT Article 33(3) with regard to the requirement of Inventive Step because the prior art does not obviously suggest to a person skilled in the art the use of a rainscreen apparatus including a substantially rigid air barrier adapted for attachment to a building structure, a rainscreen panel adapted for attachment over the air barrier, a spacing member adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means adapted to provide substantial pressure equalisation within the clearance space.

INDUSTRIAL APPLICABILITY (IA)

The claims are related to products capable of commercial application.

With regard to the document(s) listed in Box VI under "certain documents cited", these are documents published prior to the international filing date but later than the priority date claimed but which would otherwise be considered to be of particular relevance.

Under the PCT, novelty is considered only in respect of documents published before the priority date. The relevance of a document published after the priority date is dependent upon national law. Such documents are excluded from consideration in preliminary examination, under the PCT Guidelines but have been included here for information.

The citation US 6745531 appears to disclose the invention defined by claims 1-13, 17-22, 26-28 and 30-42.